



The Activist Files Episode 37: Dismantling Jim Crow Juries - A conversation with Angela Guisado and Jamila Johnson

Angela Guisado:

Welcome to the Activist Files. I'm Angela Guisado, a staff attorney here at the Center for Constitutional Rights. I have the distinct pleasure of being joined by Jamila Johnson of PJI. Welcome Jamila.

Jamila Johnson:

Thanks for having me.

Angela Guisado:

We're here because, thanks to incredible partnership with PJI, we've filed two petitions for post-conviction relief on behalf of our clients, Matthew Allen and Rufus Henry. We'll get into all of that in just a second. First Jamila, could you tell us a little bit about PJI? What kind of causes you all support? What are you up to these days?

Jamila Johnson:

Sure. Promise of Justice Initiative emerged out of work that a number of lawyers were doing in the death penalty space in Louisiana. Our clients were on death row in Angola, Louisiana State Penitentiary, the largest maximum security prison in the country, and the conditions they were facing were horrific. Understanding that Louisiana had an addiction with mass incarceration and that the conditions of confinement in many of its prisons were abhorrent, the Promise of Justice Initiative came together to try to change those things through both organizing client support and legal action.

Angela Guisado:

Your website is replete with all the amazing types of work that you do. Sentencing laws, challenging what we call death by incarceration or life without parole, detention conditions. But we most recently collaborated with you to challenge the non-unanimous juries also known as the Jim Crow Juries. Could you tell us a little bit about how you got involved with that?

Jamila Johnson:

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Sure. Promise of Justice Initiative has been working on Jim Crow Juries work for since close to 2004, many of the attorneys and staff. And it was a realization that Louisiana and Oregon did two things that the 48 other States did not do. And we wanted to understand why and through our learning, why Louisiana convicted people without a unanimous jury with ten to two, or eleven to one juries, we found that it came from a history of racism and explicit attempts to ensure white supremacy within the state of Louisiana

Angela Guisado:

And the state of Oregon. You know, as I understand, Oregon was founded explicitly as a New White State. I don't think you could even be black in Oregon until 1927. Don't quote me on that.

Jamila Johnson:

I make a fantastic Bar admission choices because I was also admitted to practice in the state of Oregon and I grew up in Washington state where my dad and my grandparents would drive down to Texas. And the scariest part of their drive used to be going through Oregon.

Angela Guisado:

I certainly do not doubt it. For those of you listening in who pay attention to the Supreme Court, Promise of Justice Initiative's client, Mr. Ramos, had his case reach that court a couple of years ago. Could you talk to us a little bit about his case?

Jamila Johnson:

Sure. Mr. Ramos was like 62% of the people who are still in Louisiana's prisons with non-unanimous jury verdicts or Jim Crow Jury verdicts. He was serving a life without the possibility of parole sentence, even though at least one, and in his case, two jurors had serious doubts about his guilt. Mr. Ramos went to the U.S. Supreme Court and on April 20th of 2020, the U.S. Supreme Court said what our clients have always known to be true in their bones: that Jim Crow Juries were racist and that they violated the United States Constitution.

Angela Guisado:

And just so everyone, all the listeners out there know we're recording this on the one-year anniversary of the Ramos decision. I'd like to talk a little bit about that racist background. As I understand it, Louisiana didn't always adhere to non-unanimous juries. In fact, in 1804, I think they decided that unanimous juries were required. Why the change?

Jamila Johnson:

Yeah, Louisiana looked much like the rest of the country, but for context at the time of the civil war, more than half of the state of Louisiana was enslaved. And so in the decades that followed, you saw tremendous struggle within the state of Louisiana for white Louisianans to really maintain power through a significant amount of violence while black Louisianans were seeking to register to vote through a horrific history of lynching. We get to 1898 when a Constitutional Convention is called with the sole purpose of ensuring the supremacy of the white race in the state of Louisiana, to the greatest extent permissible under law.

Angela Guisado:

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I couldn't believe it when I read it, but I believe justice Kavanaugh quoted, had that exact quote in his Ramos decision. Is that right?

Jamila Johnson:

He did! I mean, it's seldom that the evidence is so overwhelming of the motivation of legislation, but from everything from the official liner notes of the Constitutional Convention, to all of the newspaper coverage, it was clear that the sole purpose of this convention was to create different rights and to silence the voices of black jurors and black voters and to enshrine within Louisiana's Constitution, white supremacy,

Angela Guisado:

Not to mention giving those anti-reconstructionist, former slave owners, some free labor as we're all aware. Okay. So everyone agrees that convicting someone non-unanimously not only violates the sixth amendment and is wrong, but why are our clients still sitting in Angola?

Jamila Johnson:

Yeah, I think most people would assume that when the U.S. Supreme Court says that your conviction was unconstitutional and that it came from a racist Jim Crow law, that you would get some remedy. However, historically, that has not been the way that things have turned out from previous cases. In the case of non-unanimous jury verdicts, when the Ramos case was heard, we knew immediately that we were going to have to do more work in order to have it applied to those people who had final convictions. And that is the majority of people with non-unanimous jury verdicts in Louisiana's prison system. Unfortunately, the Supreme Court has a jurisprudence about when they're going to force a state to retry cases. And we are up against that right now while awaiting a ruling in *Edwards v. Vannoy*.

Angela Guisado:

How many of these cases does Promise of Justice Initiative have?

Jamila Johnson:

We have filed just under 1,050 post-conviction relief applications over the period of one year?

Angela Guisado:

Wow. So first, wow. I hope that sinks in for everyone. Is it fair to say that a large portion of those petitions are on behalf of Black men?

Jamila Johnson:

Yes. Roughly 80% of the people who are incarcerated in Louisiana's prison system who have non-unanimous jury verdicts are Black. And the vast majority of our clients reflect that as well.

Angela Guisado:

The systematicity with which States subjugate Black people, Black men in particular knows no ends, but we're really committed to bring about their liberation. Can you talk to us a little bit about what you expect in the coming months?

Jamila Johnson:

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Sure. It's a difficult time. For a little bit of context: as a country, we are generally pretty good at identifying Jim Crow laws today and changing those laws. Not great. It's 2021. And we have just struck down non-unanimous jury verdicts, which are clearly Jim Crow laws, but we're pretty good at that. We're also pretty good at identifying and saying aloud that something was a Jim Crow law. Where we struggle as a country is in figuring out how to remedy those. How to help heal. How do identify the people who are carrying the greatest weight from those Jim Crow laws, and figure out how to address their harm so it doesn't continue on to the next generation. In the coming months, we anticipate a pretty brutal fight to keep these cases in court. We are hoping for a good decision in the U.S. Supreme Court case, *Edwards v. Vannoy*. We're passing, or hoping to pass legislation in Louisiana so that the state of Louisiana doesn't have to rely on the federal government to fix its own messes. I mean, it should be long gone the days where you had to rely on the federal government to tell Louisiana that it's doing something that has such racist implications. And we're going to hope that we get to see more of our clients come home, like the 20 some that have already been released as a result of our advocacy.

Angela Guisado:

You know, I really just wanted to underscore that point. You know, for the listeners out there, there's a legal mechanism by which certain decisions of law can or cannot be applied retroactively. And there's all sorts of standards and that's law stuff, and we don't have to get into that right now. But what I do want to talk about is, isn't it true that Louisiana simply could just grant retroactivity to all the former convictions. And aren't you doing something about that legislatively?

Jamila Johnson:

Absolutely. The state of Louisiana can choose to give a remedy and it can change state law to allow that. We are asking the lawmakers of Louisiana to clearly do so. And to make a stand against this practice and start helping Louisianans heal. We are also asking that they give additional time for people who have not been able, during COVID, to obtain their records, to talk to attorneys in person, to do those things that were necessary in order to file within one year of that decision. State of Louisiana Supreme Court could also do this as well. We talk about the federal standard by which retroactivity is determined, but the state of Louisiana also has the ability to look at local interests and the local navigation of the credibility of its criminal system that was caused by keeping in place a system that was so systemically racist.

Angela Guisado:

I couldn't agree more. And in fact, as I understand a lot of the Parishes in Louisiana sort of operate as their own independent polities. Each of the district attorneys brings in their own particular views on the Jim Crow Jury laws. Can you talk a little bit about what it's been like to work with or against certain district attorney's office, as you try and rid Louisiana from this vestige of the Jim Crow system?

Jamila Johnson:

So often our work, we are fundamentally pitted against district attorneys. And Jim Crow Juries are an interesting issue because it was not the fault of district attorneys that we had for more than 120 years. This system, this was the fault of a group of white lawmakers in 1898. But today what you do as we're trying to fix this system, that's really where the role of the district attorney comes into play. In Orleans. We have a reform district attorney who's been recently elected and he campaigned on the issue of non-unanimous jury issues or verdicts, and really wanted to make a systematic process by which to look at these cases and to provide remedy for them. Other district attorneys across the state have really been waiting for the federal government to give them an idea on what to do. The defense attorney's

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association didn't oppose the Constitutional amendment in Louisiana that sought to end this practice. But when it comes to actually retrying cases, there is a hesitancy that we're hoping to overcome.

Angela Guisado:

You have seen some recent victories though, haven't you?

Jamila Johnson:

We have in the month of March, we were able to welcome home 19 of our clients. One of those clients, Jermaine Hudson, was exonerated through the process of our representation. When the accuser came to the district attorney's office and explained for the past 22 years, he had been holding this lie. He had told his parents that he had been robbed on his way home from work or this paycheck. In reality, he just didn't want to tell his parents that he'd used that paycheck on drugs. So Mr. Hudson got to walk home a free man, exonerated, and it just underscores the lack of reliability of these non-unanimous jury verdicts.

Angela Guisado:

I don't mean to make light of the gravity of the situation, but anytime anybody comes home from jail, I like to celebrate a little bit. So if you, excuse me. [SOUND: Vuvuzela blast]

Jamila Johnson:

Yeah, it's taken those moments of being excited about our clients that really get us through. I mean, it's been 1,050 post-conviction relief applications over the 365 days through COVID. To be able to start to see men and women come home is really phenomenal

Angela Guisado:

And that's right. You know, we could not have prepared these petitions without Promise of Justice Initiatives review and support, but, you know, ultimately we share the same vision right of decarceration society, but most importantly of bringing about people's freedoms, returning them to Liberty. And I can't, I really cannot thank y'all enough for the hard work that y'all have done that y'all continue to do.

Jamila Johnson:

Thank you so much for joining us in this journey. And I think it is pretty unheard of to plan a project around a future Supreme Court case that you can't guarantee is going to come down. More insane to try to file 1,050 post-conviction relief applications in a year. And without the volunteers and the partnerships, we wouldn't have been able to do that. So thank you for coming along on this crazy journey and sharing this vision for the future.

Angela Guisado:

It was our pleasure. You know, we'll argue it in court if we have to, but hopefully our clients get out sooner than that.

Jamila Johnson:

Absolutely. Thanks so much.

Angela Guisado:

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You're welcome. This was fantastic. We're again, joined by Jamilla Johnson, Promise of Justice Initiative out of Louisiana. Please go more on their website, on our website to read the petitions. Hear our and their advocacy, and join us in this fight to rid ourselves of this vestige of the Jim Crow Jury system. Thank you so much.

Jamila Johnson:

You're welcome.